

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
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**FILE COPY**

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

GERALD RIFFKIND, R.Ph.,  
RESPONDENT.

**FINAL DECISION AND ORDER**

95 PHM 80  
LS 9807151PHM

The parties to this action for the purposes of §227.53, Wis. Stats., are:

Gerald Riffkind, R.Ph.  
900 S. 2nd St.  
Rocky Ford, CO 81067

Wisconsin Pharmacy Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

**FINDINGS OF FACT**

1. Respondent Gerald [NMI] Riffkind (dob 11/7/35) is and was at all times relevant to the facts set forth herein a registered pharmacist licensed in the State of Wisconsin pursuant to license #12211, originally granted on 10/13/94. On 11/7/95, respondent was reprimanded and ordered to pay a forfeiture and costs by the Board for failing to provide a consultation and for permitting unlicensed persons to transfer prescribed medication without a pharmacist's presence, in file 95 PHM 2.

2. Respondent is under investigation because the pharmacy for which he formerly worked is missing 173 tablets of phentermine. There is evidence from which it could be inferred that respondent took and consumed this controlled substance.

3. On 12/13/96, respondent was interviewed by an agent of the Board, and specifically stated that he had never taken phentermine, nor had he ever taken any unprescribed controlled substance, that he did not take any phentermine from his former employer, and had never had any condition for which phentermine would be an appropriate medication.

4. The Board has received communications from respondent's physicians. It appears that respondent is not impaired by the use of controlled substances at this time, and can practice with skill and safety to patient and public. In the opinion of his physicians, respondent is not and never has been addicted to any controlled substance.

5. Respondent has moved from Wisconsin and has no intention of returning to practice or live in Wisconsin again.

### CONCLUSIONS OF LAW

A. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to §450.10, Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

### ORDER


NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that the SURRENDER of the license to practice pharmacy of Gerald Riffkind, R.Ph., is ACCEPTED.

IT IS FURTHER ORDERED, that respondent shall pay COSTS in this matter.

Dated this November 10, 1998.

WISCONSIN PHARMACY EXAMINING BOARD, by:

  
a member of the board

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STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

GERALD RIFFKIND, R.Ph.,  
RESPONDENT.

STIPULATION  
95 PHM 80

It is hereby stipulated between the above Respondent and the undersigned prosecuting attorney for the Division of Enforcement of the Department of Regulation and Licensing, as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondent by the Division of Enforcement. Respondent consents to the resolution of this investigation by agreement and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation, respondent waives the following rights with respect to disciplinary proceedings: the right to a statement of the allegations against respondent; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against respondent; the right to call witnesses on respondent's behalf and to compel attendance of witnesses by subpoena; the right to testify personally; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent is aware of respondent's right to seek legal representation and has obtained legal advice before signing this Stipulation.

4. Respondent denies that he was ever impaired, ever took drugs without a prescription, or intentionally made a false statement to any agent of the Board, but agrees to the adoption of the attached Final Decision and Order by the Board solely as a settlement in this matter and to avoid the costs and uncertainties of litigation. The parties consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of Respondent or Respondent's attorney, for the purposes of speaking in support of this agreement and answering questions that the members of the Board and its staff may have in connection with their deliberations on the case.

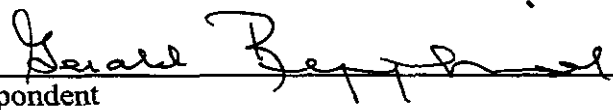
7. The Case Advisor in this matter may participate freely in any deliberations of the Board regarding acceptance of this Stipulation and the proposed Final Order, and may relate to the Board any knowledge and views of the case acquired during the investigation.


BEET S T30

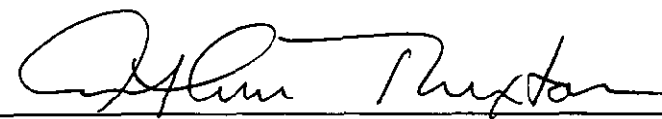
8. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

9. Respondent is informed that should the Board adopt this stipulation, the board's final decision and order is a public record and will be published in the monthly *Report of Decisions* issued by the department. A summary of the order will be published in the *Wisconsin Regulatory Digest* issued semiannually by the Board. Other reporting as required by law will occur. A press release will be prepared and distributed to all press boxes in the State Capitol building, to the press in the community where respondent resides and practices, and to individuals and organizations included on a mailing list maintained by the department. This is standard department procedure and in no way specially directed at Respondent.

10. Respondent agrees to deliver respondent's credentials to the Board immediately upon receipt of the Final Decision and Order resulting from this Stipulation. Respondent unconditionally surrenders his license to practice pharmacy in Wisconsin, and agrees not to reapply for such licensure. If respondent does reapply or petition the Board for reinstatement, he agrees that the Board may deny such request, and that he has waived his right to any hearing or appeal of the Board's decision. If the Board does permit respondent to practice in Wisconsin, it may condition licensure on such examinations as it deems appropriate, in its sole discretion.

  
Respondent 10-17-98  
Date

  
Ralph V. Topinka, Attorney for Respondent 10/14/98  
Date

  
Prosecuting Attorney 10/14/98  
Date  
Division of Enforcement

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING  
BEFORE THE PHARMACY EXAMINING BOARD

In the Matter of Disciplinary Proceedings Against

Gerald Riffkind, R.Ph.,

AFFIDAVIT OF MAILING

Respondent.


STATE OF WISCONSIN    )  
                                  )  
COUNTY OF DANE        )

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

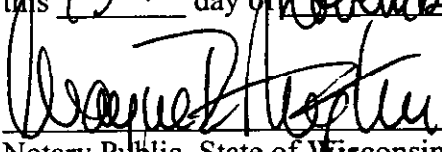
2. On November 11, 1998, I served the Final Decision and Order dated November 10, 1998, LS9807151PHM, upon the Respondent Gerald Riffkind's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is Z 233 819 959.

Ralph V. Topinka, Attorney  
One S. Pinckney Street  
P.O. Box 2113  
Madison WI 53701-2113

  
\_\_\_\_\_  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 13<sup>th</sup> day of November, 1998.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	ORDER FIXING COSTS
	:	Case # LS9807151PHM
GERALD RIFFKIND, R.PH.,	:	
RESPONDENT.	:	

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On November 10, 1998, the Pharmacy Examining Board filed its Final Decision and Order in the above-captioned matter by which the board ordered that pursuant to sec. 440.22, Wis. Stats., 100% of the costs of this proceeding be assessed against respondent. Pursuant to sec. RL 2.18 (4), Wis. Adm. Code, on or about November 16, 1998, the Pharmacy Examining Board received the *Affidavit of Costs* in the amount of \$2,382.53, filed by Attorney Arthur Thexton. On or about November 16, 1998, the Pharmacy Examining Board received the *Affidavit of Costs of the Office of Legal Services* in the amount of \$15.98, filed by Administrative Law Judge John N. Schweitzer. The Pharmacy Examining Board considered the affidavits on January 13, 1999, and orders as follows:

ORDER


NOW, THEREFORE, IT IS ORDERED that pursuant to sec. 440.22, Wis. Stats., the costs of this proceeding in the amount of \$2,398.51, which is 100% of the costs set forth in the affidavits of costs of Attorney Arthur Thexton and Administrative Law Judge John N. Schweitzer, which are attached hereto and made a part hereof, are hereby assessed against respondent, and shall be payable by him to the Department of Regulation and Licensing. **Failure of respondent to make payment on or before February 12, 1999, shall constitute a violation of the Order unless respondent petitions for and the board grants a different deadline.** Under sec. 440.22 (3), Wis. Stats., the Pharmacy Examining Board may not restore, renew or otherwise issue any credential to the respondent until respondent has made payment to the department in the full amount assessed.

To ensure that payments for assessed costs are correctly receipted, the attached "*Guidelines for Payment of Costs and/or Forfeitures*" should be enclosed with the payment.

Dated this 13th day of January, 1999.

PHARMACY EXAMINING BOARD

By: \_\_\_\_\_

  
A Member of the Board

# Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech  
TRS# 1-800-947-3529, impaired only

## GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On November 10, 1998, the Pharmacy Examining Board  
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a  
forfeiture.

The amount of the costs assessed is: \$2,398.51 Case #: LS9807151PHM

The amount of the forfeiture is: \_\_\_\_\_ Case # \_\_\_\_\_

Please submit a check or a money order in the amount of \$2,398.51

The costs and/or forfeitures are due: February 12, 1999

NAME: Gerald Riffkind, R.Ph. LICENSE NUMBER: 12211

STREET ADDRESS: 900 South 2nd Street

CITY: Rocky Ford STATE: CO ZIP CODE: 81067

Check whether the payment is for costs or for a forfeiture or both:

☒ COSTS

☐ FORFEITURE

Check whether the payment is for an individual license or an establishment license:

☒ INDIVIDUAL

☐ ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

**DEPARTMENT OF REGULATION AND LICENSING**  
**1400 E. WASHINGTON AVE., ROOM 141**  
**P.O. BOX 8935**  
**MADISON, WI 53708-8935**

**For Receipting Use Only**

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

G:\BDLS\FM2145.DOC

Committed to Equal Opportunity in Employment and Licensing+



**STATE OF WISCONSIN**  
**BEFORE THE PHARMACY EXAMINING BOARD**

IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS  
AGAINST  
**GERALD RIFFKIND, R.Ph.,**  
RESPONDENT.

**AFFIDAVIT OF COSTS**

Case No. LS-9807151-PHM

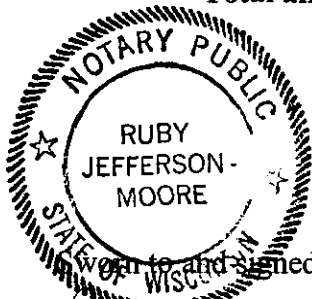
John N. Schweitzer affirms the following before a notary public for use in this action, subject to the penalties for perjury in sec. 946.31, Wis. Stats.:

1. I am an attorney licensed to practice law in the State of Wisconsin, and am employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services.

2. In the course of my employment, I was assigned as the administrative law judge in the above-captioned matter.

3. Expenses for the Office of Board Legal Services are set out below:

a. Court Reporter Costs	\$0.00
b. Administrative Law Judge Expense	
8-20-98 Prehearing conference and scheduling notice	20 min.
9-21-98 Prehearing conference	5 min.
10-16-98 Notice of adjournment	5 min.
Total = 1/2 hour at \$31.965/hr.	\$15.98
<b>Total allocable costs for Office of Board Legal Services</b>	<b>\$15.98</b>



  
John N. Schweitzer  
Administrative Law Judge

Subscribed and sworn to and signed before me this 16<sup>th</sup> day of November, 1998.

Ruby Jefferson-Moore, Notary Public, State of Wisconsin.

My commission is permanent.

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

AFFIDAVIT OF COSTS

GERALD RIFFKIND,

LS9807151PHM

RESPONDENT

95PHM080

STATE OF WISCONSIN     )  
                                  ) ss.  
COUNTY OF DANE         )

Being duly on affirmation, the undersigned employee of the Department of Regulation and Licensing, upon information and belief, deposes and states as follows:

That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter

**PROSECUTING ATTORNEY EXPENSE — ARTHUR K. THEXTON**

DATE	ACTIVITY	HOURS	MINUTES
08/19/0008	Review file, draft preliminary witness list and send	0	45
08/01/1887	Rcv fax from Atty Topinka re objection.	0	10
11/21/1995	Screen case	0	30
02/28/1996	Rcv & review ltr from Atty Topinka.	0	15
11/06/1996	Lv msg fro Atty Topinka. Draft subpoena.	0	45
11/15/1996	Review file, draft and issue subpoena to respondent.	1	0
12/03/1996	Travel to Atty Topinka's office, interview respondent, return	1	50
12/04/1996	Memo of interview	1	0
02/12/1997	Review Inv. Rohland memo, note in reply.	0	15
06/02/1997	Do materials for DoJ for court order	2	0
07/25/1997	Receive and review court order authorizing subpoena	0	30
07/29/1997	Issue subpoena to Mercy with court order.	1	0
08/04/1997	Fax Atty Topinka's ltr to AAG Sutherland.	0	10
08/07/1997	Rcv records from Mercy, hold without reviewing	0	10
08/15/1997	Rcv Scheduling Order from Judge Moeser, fax to AAG Sutherland.	0	15
08/22/1997	Receive and review Atty Topinka's Response To Petition	0	30
08/25/1997	Attend Circuit Court pretrial re. records release with AAG Sutherland	1	0
09/15/1997	Attend Circuit Court hearing, testify.	1	50
09/17/1997	Rcv & review materials from AAG Sutherland.	0	15
09/22/1997	Rcv & review materials from AAG Sutherland	0	15
10/22/1997	Review medical records Refer to Inv Cuccia.	1	0
10/23/1997	Review Inv Cuccia's findings, confer with Inv Cuccia. Draft stip for CA review, send to CA.	3	0
12/01/1997	Confer with CA. TC with Atty Topinka re: interview of respondent.	0	15
04/03/1998	Review file. Send stip proposal to Atty Topinka Draft complaint.	0	30
06/17/1998	Finalize Complaint, to Berndt for approval.	0	30
07/13/1998	Rcv Complaint approval from Berndt, to Petersen for filing.	0	15
07/15/1998	Rcv filed complaint from Petersen, tickle.	0	10
08/06/1998	Rcv & review Answer. Enter time records.	0	45
08/20/1998	Pretrial conference with Atty Topinka & ALJ	0	20
09/11/1998	TC with Atty Topinka.	0	30
09/16/1998	TC with Atty Topinka	0	20
09/17/1998	Review file, draft new stip proposal, mail out.	1	0
09/21/1998	Pre-hearing conference with ALJ, brief TC with Atty Topinka	0	20
09/24/1998	Several messages and TC with Atty Topinka Assign legal assistant to depos.	0	30
10/05/1998	TC with Atty Topinka, prepare for depositions	1	50
10/06/1998	Travel to Wautoma and Oshkosh, depose C. Mertens and D. Verde. Return.	8	0
10/09/1998	Telephone conference with Atty Topinka Do witness list and file.	1	0
10/12/1998	Lv msg for Atty Topinka re: deposition of respondent.	0	10
10/13/1998	TC with Atty Topinka Arrange court reporter. Notice of Deposition. Consider and draft new stipulation, fax to Atty Topinka	1	0
10/14/1998	Telephone messages from and to Atty Topinka. Receive and file transcripts.	0	20
10/14/1998	Revise stipulation and final order per telephone conversation with Atty Topinka, deliver.	0	30
10/15/1998	Notify ALJ of settlement.	0	10

**PROSECUTING ATTORNEY EXPENSE — ARTHUR K. THEXTON**

DATE	ACTIVITY	HOURS	MINUTES
10/27/1998	Telephone conversation with Atty Topinka Receive stipulation, convey to Bureau, file copy	0	20
11/10/1998	Present stipulation to Board	0	15
11/16/1998	Prepare Affidavit of Costs.	0	15

<b>TOTAL PROSECUTING ATTORNEY EXPENSE —</b>	<b>37 HOURS AN 40 MINUTES</b>	<b>HOURS</b>	<b>MINUTES</b>
(Based on their average salary and benefits at the Division of Enforcement)		<b>TOTALS</b>	
		37	40
<b>AT \$41.00 PER HOUR =</b>	<b>\$1,544.33</b>		

**INVESTIGATOR EXPENSE — STEVEN A. ROHLAND**

DATE	ACTIVITY	HOURS	MINUTES
11/04/1996	Total investigator time hand-logged in file.	3	50

<b>TOTAL INVESTIGATOR EXPENSE —</b>	<b>3 HOURS AN 50 MINUTES</b>	<b>HOURS</b>	<b>MINUTES</b>
(Based on their average salary and benefits at the Division of Enforcement)		<b>TOTALS</b>	
		3	50
<b>AT \$20.00 PER HOUR =</b>	<b>\$76.67</b>		

**INVESTIGATOR EXPENSE — THERESA CUCCIA**

DATE	ACTIVITY	HOURS	MINUTES
10/21/1997	Review patient records, memo.	2	0

<b>TOTAL INVESTIGATOR EXPENSE —</b>	<b>2 HOURS AN 0 MINUTES</b>	<b>HOURS</b>	<b>MINUTES</b>
(Based on their average salary and benefits at the Division of Enforcement)		<b>TOTALS</b>	
		2	0
<b>AT \$20.00 PER HOUR =</b>	<b>\$40.00</b>		

**LEGAL ASSISTANT EXPENSE — STEVEN ENGELBRECHT**

DATE	ACTIVITY	HOURS	MINUTES
09/24/1998	Review case file. Confer with Attorney Thexton Schedule depositions. Copy patient records for Atty Topinka. Contact Atty. Topinka and have him pick up records.	3	40
09/25/1998	Schedule depositions.	1	50
09/28/1998	Schedule depositions.	0	50
09/29/1998	Schedule depositions. Telephone conversation with Atty. Topinka.	1	0
10/01/1998	Schedule Riffkind depositions. Telephone conversation with Cheryi A. Mertens. Draft Subpoenas. Draft written notification to Atty Topinka.	3	0
10/02/1998	Send Subpoenas to witnesses. Send notification to Atty Topinka. Telephone conversation with Atty Topinka. Bates stamp, review and copy Riffkind's patient records.	4	20
10/05/1998	Prepare, copy and organize materials for deposition. Confirm deposition.	3	0
10/07/1998	Draft Subpoena for Laura Kunkel Cover letter	1	0
10/15/1998	Draft letter notifying witness L.K. that the case has settled.	0	30

<b>TOTAL LEGAL ASSISTANT EXPENSE —</b>	<b>19 HOURS AN 10 MINUTES</b>	<b>HOURS</b>	<b>MINUTES</b>
(Based on their average salary and benefits at the Division of Enforcement)		<b>TOTALS</b>	
		19	10
<b>AT \$20.00 PER HOUR =</b>	<b>\$383.33</b>		

**MISCELLANEOUS EXPENSE — ARTHUR K. THEXTON**

DATE	ACTIVITY
10/14/1998	Court reporter's fee for Verde, Mertens depositions on 10/6/98.

EXPENSE SUMMARY

PROSECUTING ATTORNEY EXPENSE --	ARTHUR K. THEXTON	\$1,544.33
INVESTIGATOR EXPENSE --	STEVEN A. ROHLAND	\$76.67
INVESTIGATOR EXPENSE --	THERESA CUCCIA	\$40.00
LEGAL ASSISTANT EXPENSE --	STEVEN ENGELBRECHT	\$383.33
MISCELLANEOUS EXPENSE --	ARTHUR K. THEXTON	\$338.20
	TOTAL ASSESSABLE COST >>>>	\$2,382.53

  
\_\_\_\_\_  
Arthur K. Thexton, Attorney

Subscribed and affirmed to before me this  
16th of November, 1998

  
\_\_\_\_\_  
Notary Public

My commission 15 September



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING



Tommy G. Thompson  
Governor

November 17, 1998

Marlene A. Cummings  
Secretary

1400 E. WASHINGTON AVENUE  
P.O. BOX 8935  
MADISON, WISCONSIN 53708-8935  
E-Mail: [dori@mail.state.wi.us](mailto:dori@mail.state.wi.us)  
(608) 266-2112  
FAX#: (608) 267-0644

RALPH V. TOPINKA, ATTORNEY  
QUARLES & BRADY  
FIRSTAR PLAZA  
P.O. BOX 2113  
MADISON, WI 53701-2113

RE: In The Matter of Disciplinary Proceedings Against Gerald Riffkind, R.Ph.,  
Respondent, LS9807151PHM, Assessment of Costs

Dear Mr. Topinka:

On November 10, 1998, the Pharmacy Examining Board issued an order involving the license of Gerald Riffkind, R.Ph., to practice as a pharmacist in Wisconsin. The order requires payment of the costs of the proceedings.

Enclosed please find the Affidavits of Costs of the Office of Legal Services and the Division of Enforcement in the above captioned matter. The total amount of the costs of the proceedings is \$2,398.51.

Under sec. RL 2.18, Wis. Adm. Code, objections to the affidavits of costs shall be filed in writing. Your objections must be received at the office of the Pharmacy Examining Board, Room 178, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, on or before December 10, 1998. After reviewing the objections, if any, the Pharmacy Examining Board will issue an Order Fixing Costs. Under sec. 440.23, Wis. Stats., the board may not restore or renew a credential until the holder has made payment to the department in the full amount assessed.

Thank you.

Sincerely,

Pamela A. Haack  
Administrative Assistant  
Office of Legal Services

Enclosures

cc: Pharmacy Examining Board  
Department Monitor

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors; Professional Geologists, Hydrologists and Soil Scientists; Auctioneer; Barbering and Cosmetology; Chiropractic; Controlled Substances; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Podiatry; Psychology; Real Estate; Real Estate Appraisers; Social Workers; Marriage and Family Therapists; and Professional Counselors; and Veterinary.

Committed to Equal Opportunity in Employment and Licensing

## NOTICE OF RIGHTS OF APPEAL

TO: RALPH V TOPINKA ATTY

You have been issued an Order. For purposes of service the date of mailing of this Order is 11/11/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

### A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Order is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

### B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

### SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN PHARMACY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935